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STATE FOR ISN/MTR, EUR/UBI

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TAGS: [PARM](#) [MTCRE](#) [PREL](#) [ETTC](#) [IR](#) [NL](#)
SUBJECT: NETHERLANDS/IRAN: UPDATE ON AVIATION SERVICES
INTERNATIONAL CASE

REF: A. 05 STATE 145292
[1](#)B. 05 STATE 164496
[1](#)C. 05 STATE 229063
[1](#)D. 05 THE HAGUE 03397
[1](#)E. 06 THE HAGUE 00302
[1](#)F. 06 STATE 159373
[1](#)G. 06 THE HAGUE 02139

Classified By: CDA Chat Blakeman, reasons 1.4 (b,d)

[1](#)1. (S) Summary: The Dutch Ministry of Economic Affairs has issued a new WMD-related "catch all" under the MTCR in connection to Aviation Services International's attempts to circumvent Dutch and EU export restrictions. However, Dutch legislation does not prohibit conventional military sales to Iran, which could be exploited as way to circumvent Dutch WMD-related export controls. While the new catch-all requires Dutch companies to apply for an export license for conventional military sales, it will be very difficult to justify denying such a license and will require the concurrence of a judge should the exporting company appeal the denial. Moreover, the GONL has opened Aviation Services International crates currently suspended from export to Iran and found U.S. conventional military equipment. MFA Senior Advisor for Nuclear and Nonproliferation Affairs Ceta Noland provided this update to polmiloff on January 5. End summary.

The Good News...

[1](#)2. (S) Noland said the Ministry of Economic Affairs (MEA) recently issued a new WMD-related "catch-all" under the MTCR, primarily aimed at suspending exports from Aviation Services International (ASI) to Iran. Per reftel, ASI has tried on several occasions to export unmanned aerial vehicle (UAV) technology to Iran. Noland noted that the new catch-all was purposely written in broad terms to compel ASI to apply for a license for any export. She said over 150 ASI exports to Iran have subsequently been suspended, and that ASI has hired a "very aggressive" lawyer to apply for licenses.

The Bad News...

[1](#)3. (S) Even with the new catch-all, however, Noland identified a potential loop-hole in preventing potential WMD components from reaching Iran. She explained the new catch-all compels companies to apply for an export license for items that could be used in WMD-related equipment, such as UAVs. But unlike the United States or the United Kingdom, the Netherlands does not have legislation prohibiting conventional military sales to Iran. Noland said the new

catch-all is general enough that companies such as ASI would still need to apply for an export license on even conventional military components. Yet denying a license for such items would be difficult to justify under Dutch law as theoretically they are intended for conventional military purposes.

¶4. (S) Noland said the MEA could still deny a conventional military export under the argument that the component could be used for WMD purposes. However, the MEA must then rely on a concurring judge's ruling -- by no means a given -- should an export company appeal the MEA's decision. Noland said any appeal will be risky -- the MFA and the MEA are not confident the Dutch legal system as it currently stands will provide fool-proof prevention of conventional military parts from reaching Iran.

The Ugly?

¶5. (S) In addition, Noland said the MEA has opened crates of ASI suspended exports to Iran. According to Noland, some of the crates include U.S. conventional military equipment, clearly stamped with warnings not to export to Iran. She could not explain how the equipment had ended up with ASI, especially given U.S. third-party transfer legislation -- perhaps ASI acquired the U.S. equipment through a number of "middlemen" companies. Noland said ASI fully intends to export this equipment to Iran -- close to bankruptcy, ASI subsists entirely from its exports to Iran and has nothing to lose. She noted that the MEA will deny ASI an export license for this conventional military equipment, but it will be very difficult to obtain a judge's concurrence, given the lack of a Dutch conventional military sales embargo on Iran.

¶6. (S) Noland suggested the USG "must know" ASI has U.S. conventional military equipment and intends to export it to Iran, and questioned whether the USG was running an operation to determine the equipment's end-user. At the very least, she argued that the USG should be able to track the equipment from ASI through various middlemen companies back to its source of origin in the United States. She reiterated that the Dutch do not possess legislation prohibiting conventional military sales to Iran -- better the USG "nip the source at the bud," she said, than rely on the flawed Dutch legal system to prevent the export.

Comment

¶7. (S) Noland was unable to identify or provide tracking numbers for the alleged U.S. conventional military equipment, but we have no reason to doubt her claims. POL is working with other agencies at post, which are attempting to verify the claim and obtain equipment tracking numbers from Dutch intelligence agencies.

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